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RECENT FRENCH DECISIONS.

Tribunal Correctional de la Seine, (6 Ch.) 1854.

MARCHI vs. SAMSON ET AL.

1. The copying of a statuette by means of the daguerreotype or other photographic apparatus, and the use of the stereoscope to give relief to the copies thus made, to the injury of the owner of the original work of art, is an infringement of his copyright.

The following is in substance, the judgment of the Court in this case :—

An idea, and its embodiment through the means of any art whatever, are the property of its author.

The reproduction of a work of art, in whatever manner, and whatever process and material its author may have employed, constitutes an unquestionable breach of copyright, when made without the assent of the original author of the artistic work, or his assigns. Such a reproduction is of a nature to injure the rights and interests of the author, by vulgarizing his work, and consequently diminishing its artistic and commercial value.

In the present case, Marchi has established his property in the entire productions of the late Pradier, and on this title he has the right and interest to prosecute for the suppression of an infringement which operates to his injury. It has been proved on the trial, that Samson, Deschamps and Bertrand have infringed his copyright, by taking impressions on daguerreotype plates, or on paper, from the statuettes of Pradier, of which Marchi is proprietor, and by giving relief thereto, with the stereoscope; and that Gandin, Dubosc and Montfort, have retailed these imitations. They have thus besides the commission of the unlawful act itself, caused an injury to Marchi, which the Court has before it sufficient materials to estimate.

The Court, therefore, applying to Samson, Bertrand, Gandin, Dubosc and Montfort, articles 425, 26, 27, of the Penal Code, imposes on Bertrand, Samson and Deschamps, a fine of 100 francs each; on Gandin, a fine of 200 francs, and on Dubosc and Montfort,

one of 100 francs each, fixes the amount of pecuniary separation due to Marchi, at 4,000 francs, and condemns the defendants jointly and severally, to pay that sum ; directs an imprisonment of two years ; orders the insertion of this judgment in two newspapers, at the option of Marchi, and decrees the confiscation of the articles seized.

Cour Impériale de Paris. (1 Ch.) 20 Dec., 1853.

MALGAIGNE vs. DE SAINT PRIEST.

1. The editor of a collective work, has the right, even in the absence of any special agreement, to make such changes and suppressions in the articles of contributors, as he may judge proper, so long as those changes and suppressions do not affect the plan and idea of the original.
2. The task of correcting for the press, the proofs of articles in such a work, belongs to the editor.

This was an appeal from a decision of the *Tribunal de Commerce de la Seine*, reported 1 Am. Law Register, 42, where the facts are stated. That decision is reversed by a decree, the substance of which is as follows :

In undertaking the preparation of the article, "*Médecine*," for the *Encyclopédie du XIX Siècle*, Malgaigne, even in the absence of any special agreement to that effect, submitted himself implicitly to the control of the editor. In making certain changes in this article, De Saint Priest was only exercising a right, though it might perhaps have been more courteous in him to have entrusted the author himself with this task. The plan and idea of the original article have, however, been scrupulously preserved. The duty of the editor of the *Encyclopédie* has been properly performed, and the changes introduced by him in the article, in order to adapt it to the general tone of the work, have not in anywise altered its character.

On the other hand, the corrections for the press ought properly to be made by the principal editor in the case of a work collectively prepared by a number of persons ; and this is a custom generally followed.